

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 891 - HB 1078

March 18, 2013

SUMMARY OF BILL: Prohibits the seizure of any property without a seizure warrant and prohibits any person other than the sheriff from seizing property authorized under a seizure warrant. Requires all property seized by a forfeiture warrant to be sequestered and guarded against damage or released to the owner or occupant for use and caretaking until disposal of the property is resolved in court, and all personal property seized to remain upon the real property where it was located according to the warrant, unless the real property is also being seized, then the personal property shall be removed to a secure location.

Requires, at the time of seizure, the seizing officer to bear all custodial liability for the property and issue full documentation of the warrant and a receipt describing the property seized and its condition. Authorizes the owner of the property to have access to such property to assure the safety and security of the property at all stages of the holding prior to disposition ordered by the court, and have a right to an expedited recovery hearing under certain circumstances. Establishes that any property damage, spoilage, or loss of value during the pre-hearing shall be grounds for recovery of damage by the owner from the jurisdiction making the seizure, if the hearing finds in favor of the opponent in the seizure.

ESTIMATED FISCAL IMPACT:

**Decrease State Revenue – \$650,000/FY13-14
\$900,000/Each Year FY14-15 and FY15-16
\$650,000/FY16-17
\$400,000/FY17-18 and Subsequent Years**

**Increase State Expenditures – \$1,000,600/FY13-14
\$956,100/FY14-15 and Subsequent Years**

Increase Local Revenue - \$400,000/FY13-14 and Subsequent Years

**Increase Local Expenditures –
Exceeds \$2,000,000/FY13-14 and Subsequent Years***

Assumptions:

- This bill will impact seizures conducted by state and local government.

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- According to the Department of Safety (DOS), the Department will require at least one additional attorney and two other additional staff positions in each of the three regional offices (nine total positions) to handle, process, schedule, and prosecute the claims for expedited hearings established by the bill, as well as handle additional hearings based on property damage, spoilage, or loss during the pre-hearing possession phase, if the hearing finds in favor of the opponent in the seizure.
- An effective date of July 1, 2013.
- According to DOS, the recurring expenditure for salary, benefits, travel, and software licenses for three additional attorneys and six additional administrative staff positions is \$496,100, to begin in FY13-14; one-time costs occurring in FY13-14 for office furniture and equipment is estimated to be \$44,500.
- According to DOS, the Department will utilize an Administrative Law Judge (ALJ) during these hearings which will increase state expenditures approximately \$360,000 per year for payment of ALJ fees and an additional \$100,000 for court reporting costs. These recurring expenditures will begin in FY13-14.
- The total increase in state expenditures for FY13-14 is estimated to be \$1,000,600 (\$496,100 + \$44,500 + \$360,000 + \$100,000).
- The total recurring increase in state expenditures beginning in FY14-15 will be \$956,100 (\$496,100 + \$360,000 + \$100,000).
- According to DOS, the amount of revenue collected from seizures will vary statewide. The current asset forfeiture process is approximately six months long; the Department estimates, under the provisions of this bill, the length of cases will be extended from six months to a minimum of three years.
- Revenue is collected from cost bonds issued on seized property. If the state is unable to utilize these bonds for a minimum of three years, the Department will incur reduced revenue collected from seized property. Based on the information provided by DOS, the decrease in state revenue is estimated to be \$250,000 in FY13-14, the decrease in state revenue is estimated to be \$500,000 in each FY14-15 and FY15-16; and the decrease in state revenue will be \$250,000 in FY16-17.
- According to DOS, the state will no longer be the responsible party for seizing personal property; this responsibility will pass to the county sheriff, which will cause a recurring decrease in state revenue of \$400,000 per year beginning in FY13-14.
- Based on the information provided by DOS, it is estimated that local governments will experience a recurring increase in revenue collected from seized personal property of approximately \$400,000 statewide beginning in FY13-14.
- Pursuant to Tenn. Code Ann. § 40-33-211, proceeds from all seizures, confiscations and sales derived from activities of a judicial district drug task force shall be paid to an expendable trust fund maintained by the county mayor and used exclusively in drug enforcement or for a drug education program.
- There are approximately 27 judicial districts who maintain a drug task force (DTF).
- According to the 10th judicial district DTF, revenue from seizures in FY11-12 totaled approximately \$389,400. It is estimated that 90 percent of DTF funding is a result of seizure revenue. The provisions of this bill will greatly reduce the amount of seizure revenue collected by all DTFs, resulting in decreased funding for drug investigators and operations currently performed by the DTF in cooperation with local law enforcement agencies.

- Costs to each local government will vary based on several factors, including but not limited to, the number of seizures performed by sheriffs, if sheriffs have adequate staffing to perform property seizures, increased liability costs for storing seized property, increased costs for adequate storage for seized property, and increased costs for additional hearings. While a precise increase in local government expenditures cannot be determined, it is reasonably estimated to exceed \$2,000,000 statewide beginning in FY13-14.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise".

Lucian D. Geise, Executive Director

/jrh